

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BIG CHIEF PLANT SERVICES, LLC,  
Plaintiff/Counter-Defendant,

v.

No. CV 18-1226 SMV/CG

PANHANDLE MAINTENANCE, LLC,  
Defendant/Counter-Plaintiff/  
Third-Party Plaintiff,

v.

3 BEAR DELAWARE OPERATING-NM, LLC,  
Third-Party Defendant.

**ORDER ON MOTION FOR SANCTIONS**

**THIS MATTER** is before the Court on Defendant Panhandle Maintenance LLC's *Motion for Sanctions for Failure to Comply with Order on Motion to Compel and Motion to Strike*, (Doc. 78), filed August 30, 2019; Plaintiff Big Chief Plant Services, LLC's *Response to Panhandle Maintenance, LLC's August 30, 2019 Motion for Sanctions*, (Doc. 86), filed September 13, 2019; Panhandle Maintenance LLC's *Reply in Support of Motion for Sanctions*, (Doc. 88), filed September 18, 2019; and the arguments of counsel, having been heard by the Court at the Motion Hearing, (Doc. 89), on September 19, 2019. The Court, having heard arguments of counsel and having reviewed the relevant law, finds the Motion is well-taken and shall be **GRANTED IN PART** and **DENIED IN PART**.

**IT IS HEREBY ORDERED** that:

- (1) Plaintiff Big Chief Plant Services, LLC shall pay all fees and costs incurred by Defendant Panhandle Maintenance, LLC as a result of filing *its Motion to Compel*, (Doc. 64), and its *Motion for Sanctions*, (Doc. 78);
- (2) Plaintiff Big Chief Plant Services, LLC shall enter a stipulation of dismissal voluntarily dismissing its claims for breach of contract and unjust enrichment against Defendant Panhandle Maintenance, LLC; and

(3) The parties shall conduct a deposition to ascertain the date of payment for purposes of Big Chief Plant Services, LLC's Prompt Payment Act claim, pursuant to Federal Rule of Civil Procedure 30(b)(6), no later than **Friday, October 4, 2019.**

**IT IS SO ORDERED.**

  
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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE